

## **REMARKS**

#### 1. In the Drawings:

The Drawings were objected to under 37 CFR 1.183(a) on the grounds that the Claim 20 recited the elongated body being disposed over the side of the trailer or bed which is not shown in the drawings. Fig. 1 has been amended showing the elongated body being disposed over the side of the track as claimed in Claim 20. The objection should be withdrawn. The lines and reference numbers in Figs 1-5 have been revised. In Fig. 6, reference number 23 has been deleted. In Fig. 7, the sectional hash marks indicating a rubber material have been amended.

**2. In the Claims:**

a. **Restriction Requirement:**

In the Office Action mailed on 5/11/2007, the Examiner argued that Restriction is proper because the method then recited in product recited in the Claims could be used with either construction vehicles or amphibious assault vehicles. According to the Examiner, Applicant's product did not have to be disposed over the side of the bed but instead could be laid on the bed. In response, mailed on 8/20/07, the Applicant's attorney argued that the Examiner's statement that the product could be laid on the bed is irrelevant.

In the Office Action mailed on 11/6/08, the Examiner repeated the Restriction on new grounds that the Claim 20 does not recite sufficient limitations that eliminate the distinction between the inventions. According to the Examiner, the track cover could be attached by means other than the elastic straps as recited in Claim 1 or D-rings as recited in Claim 12. The Applicant again traverses the rejection and requests reconsideration after being made ‘final’ on the grounds that the Examiner has presented a new argument for the Restriction

1 that the Applicant has not had an opportunity to submit a response.

2 In response, Claim 20 is now amended to recite the use of 'elastic straps' to hold the  
3 elongated body over the track. Elastic straps are recited in both Claim 1 and 12, therefore,  
4 the Examiner's statement that means other than the elastic strap is no longer valid. The  
5 Restriction should be withdrawn.

6 b. 35 U.S.C. 112, second paragraph rejection:

7 Claims 2, 3, 9, and 12-18 were rejected as being indefinite for failing to particularly  
8 point out and distinctly claim the subject matter which the Applicant regards as the invention.

9 In the Specification, the elongated body 20 is described as including a horizontal  
10 upper section 21 and a vertical middle section 25. The upper section 21 includes a straight  
11 perimeter edge 22 that is integrally attached to the opposite side sections 26, 27. The middle  
12 section 25 includes a lower edge 28 that attaches to the mat 40. Attached or sewn to the  
13 perimeter edges of the upper, middle and side sections, 21, 25, 26, and 27, respectively and to  
14 the lower edge 28 is a durable web belt 30. (See page 4, lines 4-18).

15 In response, Claims 1, 2 and 12 have been amended to delete the term 'perimeter  
16 edge'. Claim 13 has been cancelled. The Applicant submits that Claims 12 - 18 are now in  
17 condition for allowance.

18 c. 35 U.S.C 103(a) rejections

19 Claims 1-5, 7-9 were rejected as being obvious over Haye, Sr, in view of Keller,  
20 Chen, Dube, Maguson et al, Flint and Marshall.

21 In response, Claims 1 and 12 has been amended to recite the mat includes an inside  
22 edge attached to the lower edge of the elongated body. By attaching the mat's inside edge to  
23 the lower edge of the elongated body, the mat is able to be placed horizontally on the bed of a

1 trailer with the elongated body may be folded down over the sides of the bed. After the track  
2 of a track vehicle is driven over the mat, the elongated body is then folded upward to cover  
3 the two end sections, the top section and the side opening. The elastic straps are used to hold  
4 the elongated body over the track.

5 One purpose of the mat is to create a closed cavity around the track so that rocks, dirt  
6 and other types of debris lodged into the track and in the side opening do not fall onto the  
7 roadway when the track vehicle is transported on the bed. Another purpose of the mat is to  
8 act as an intermediate layer between the track and the metal bed to improve traction (tracks  
9 on a track vehicle can slide off the metallic beds when loading and unloading from the bed).  
10 None of the cited art teach nor suggest an identical or similar structure. Nor do they include  
11 components that can be modified to create a planar structure designed to be driven upon.

12 Haye et discloses in Fig. 6, an elastic element 29 used only to hold the upper edge of  
13 the cover around the back surface of tire.

14 Keller teaches a tire shield designed to protect a tire on a parked vehicle from  
15 exposure to sunlight. The shield is designed to be easily installed and attractive for used in a  
16 trailer park. The two lower edges 20 are specifically designed to converge against the curved  
17 exposed thread and hold the shield in place during high wind conditions. The lower edges 20  
18 are located so that the lower surface of the tire so that when tire expands when placed in  
19 contact with the ground, the lower edges 20 bite into the tire to create a firm grip (See  
20 generally Col. 2, lines 30-51). The shield is not designed to be attached to the tire when the  
21 trailer is pulled. Replacing the two converging edges with a solid mat, as suggested by the  
22 examiner, would substantially change the way the shield is attached to the tire, change its  
23 manufacturing cost, alter the cover's appearance when attached to the tire. Since, no

1 evidence has been presented why an ordinary person skilled in the art would have altered  
2 Keller in the manner suggested, hindsight reasoning appears to be in use.

3 For all of the above reasons, Claims 1-5, 7-9, 12-18 are all in condition for allowance.  
4 Because base Claims 1 and 12 are now in condition for allowance, Claims 10, 11 and 19  
5 which were withdrawn pursuant to 37 CFR 1.142(b), should be re-instated. As discussed  
6 above, Claim 20 has been amended to recite elastic straps and is now in condition of  
7 allowance as well.

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9 Respectfully submitted,  
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11 DEAN A. CRAINE

12 Reg. No. 33,591

13 Attorney for Applicant

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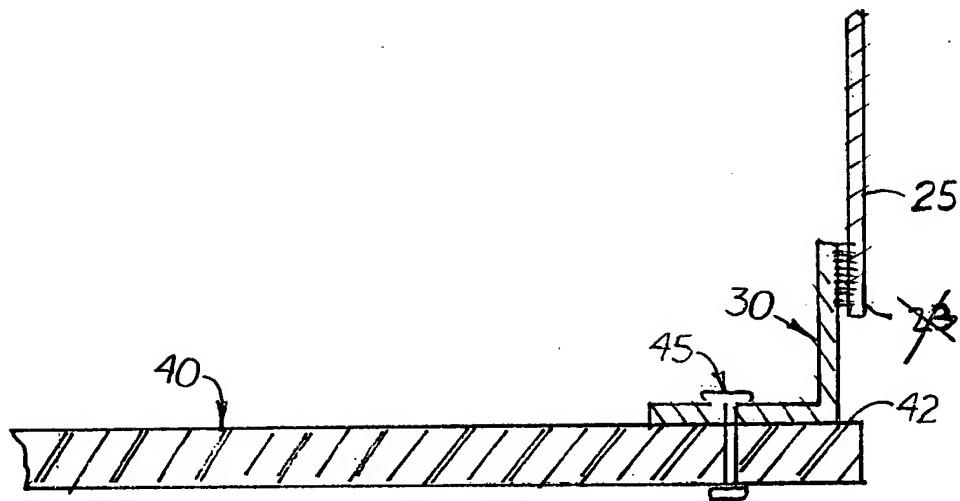
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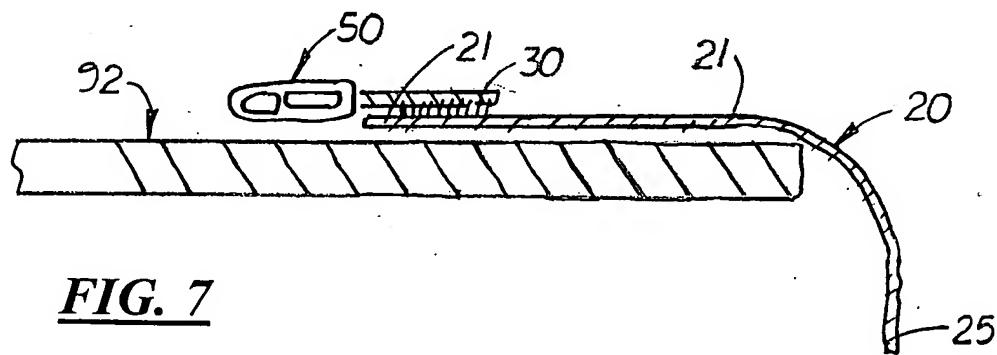
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# ANNOTATED SHEET



**FIG. 6**



**FIG. 7**